THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.11806 OF 2006

DATE: 21-7-2006

Between:
M/s Sri Raja Rajeswari Mahila Podupu Sangam,
at D.No.66-3-3, Patamata, Darsiveta,
Vijayawada, rep. by its President/Sanitary Worker
Smt. N.Rohinikumari, wife of Venkateswarlu,
aged 36, resident of Vijayawada.

... Petitioner.

And

1. Municipal Corporation of Vijayawada,
   Vijayawada, rep. by its Commissioner
   and another.

... Respondents.

* * *

ORDER:

The writ petition is filed for a writ of Mandamus or any other appropriate writ, order or direction, declaring action of the respondents in unilaterally discontinuing the petitioner sangam from attending the sanitary work in sanitary Division No.33 of Vijayawada, as illegal, arbitrary, violative of principles of natural justice, violative of the terms of the agreement dated 01.9.2005 and also violative of Articles 14 and 19(1)(g) of the Constitution of India and consequently direct the respondents to forthwith to continue the petitioner sangam to do the work of sanitation in sanitary Division No.33 of Vijayawada and pass such other suitable orders.

2. The petitioner sangam is an association formed for the purpose of welfare of the women who are its members and the petitioner is one of the Dwacra groups. It is stated that the Municipal Corporation, Vijayawada, had taken a policy decision to entrust sanitary works in the city of Vijayawada to such of those sangams, which are similarly situated like that of the petitioner. It is stated that in furtherance of the said policy decision the respondent corporation had entered into agreement with the petitioner sangam, entrusted the sanitary work with the petitioner sangam. The contract will be for a period of one year with effect from 01.9.2005 to 31.8.2006. As per the said contract petitioner sangam has to furnish list of persons who would be attending to the sanitation work allotted to the petitioner. Though a list of persons who would be attending to the sanitation work is submitted to the second respondent as per clause 12 of the contract, if any worker/person does not attend the work, the President of the petitioner can make alternative arrangement by sending a badli worker and if any badli worker is not sent by the petitioner, the worker's one day salary will not be paid and besides a penalty of Rs.58.22 ps. would be imposed on the petitioner. As per clause 16 of the agreement, even group President or Secretary can also attend the work. If they do not attend on a particular day, they have to appoint badli workers on the said dates in their place. As per clause 20 of the contract, after 89 days of working by a worker, an artificial break of one day would be given. It is also stated that the petitioner sangam had given the names for

working in sanitary Division No.33 of Vijayawada, who are the members of the petitioner sangam. All of a sudden, the second respondent, who had entered into agreement between the petitioner and respondent corporation unilaterally asked all the persons working in the Division No.33 to forthwith stop attending the work with effect from 1.6.2006, without assigning any reason and without communicating the same in writing. When the deponent herein asked the second respondent as to why such a direction had been given, the second respondent had replied that since the persons who are mentioned in the list supplied by the petitioner sangam are not attending the work, he had taken such a decision. It is stated that when relevant terms of the contract was shown to the effect that in the absence of any worker, badli workers can be sent for the work, the second respondent simply brushed aside the same and informed that he had taken a decision to discontinue the petitioner sangam from attending the work in Division No.33 of Vijayawada and the petitioner need not send any one for the work. It is also stated that this illegal termination of contract by the second respondent cannot be sustained. Several other factual details had been narrated.

3. A counter-affidavit was filed by the respondents and reply affidavit was also filed. In para 5 of the counter-affidavit it was stated that the petitioner DWCUA group was entrusted with the sanitation work and allotted to Sanitary Inspector Division No.33. An agreement was also entered in between petitioners DWCUA Group and the respondent corporation. It is surprising to note that the respondent corporation never discontinued the said group from

sanitation duties. In fact, 11 workers are still working and are being paid salaries. But in the months of April and May certain complaints had been received alleging that some imposters are working in the place of original DWCUA group members in sanitation work, thereby a verification had been taken up and accordingly the identity of all members of DWCUA Groups working in sanitation are verified. In the petitioner DWCUA Group, 11 workers have not so far shown their identity and are absenting themselves to sanitation duty. But the respondent corporation never issued such orders discontinuing the group as alleged. Certain other facts also had been averred in paras 6 and 7 of the counter-affidavit.

4. A reply affidavit is filed in detail reiterating the same stand taken in the affidavit filed in support of the writ petition. It was reported that if the members of the petitioner were not discontinued, the petitioner would not have approached this Court at all. When there are 19 members, the question of continuing only 11 members by the respondent does not arise.

5. Heard both the counsel.

6. There appears to be some factual controversy between the parties as can be seen from the respective pleadings. Be that as it may, it is stated that the very contract would be coming to an end by the end of August 2006. In the light of the stand taken in the counter-affidavit that no such termination has been effected the same is hereby recorded and the writ petition is disposed of

with a direction not to discontinue the petitioner sangam from attending sanitary work in sanitary Division No.33 of Vijayawada till completion of the lease period.

7. Accordingly, the writ petition is allowed to the extent indicated above. No order as to costs.

_____

P.S.NARAYANA, J.

Date: 21st July 2006.
BSB